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The United States District Court
for the Southern District of New York

Juan Thompson,
Petitioner

v.

United States of America,
Defendant

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U.S. COURT OF APPEALS
COUNTER 2

Motion for Compassionate Release

To the Honorable P. Kevin Castel, comes now, petitioner, acting pro se, requesting a sentence reduction under 3582(c)(1)(A). Given Covid-19, the petitioner's underlying health ailments, and the Bureau of Prisons's (BOP) response to the Covid pandemic, the extraordinary and compelling reasons for a compassionate release are met.

Statement of Facts

On April 1, 2020 the BOP implemented a system wide lockdown to mitigate and arrest the effects and spread of Covid - a respiratory novel virus that infects, and can potentially kill or paralyze its victims. On April 3rd Attorney General Bill Barr issued a memorandum directing the BOP to expand its use of home confinement because Barr wrote the BOP has a "profound obligation to protect the health and safety of all inmates". The Barr memo also instructed BOP officials to use home confinement for "all at-risk inmates", especially those at the hardest hit prisons.

(3)

Prisoners haven't received new masks in months. Initially, temperatures were taken twice daily, but no longer. Movant hasn't had a temperature check in weeks. For three months only three toilets, for over one hundred men, were functional. Center for Disease Control (CDC) prison guidelines call for prisoners to be given alcohol based sanitizer, they were not. CDC calls for prisoners to be given paper towels, they were not. CDC calls for prisoners to be given cleaning supplies, they were not. CDC calls for food orderlies to be given gloves for food handling, they were not. CDC calls for guards to wear masks, some do - most do not.

Further, negative patients are mixed with positive patients. Those isolated for contracting COVID are not retested prior to leaving isolation. FCL officials recklessly assume COVID disappears after fourteen days. One incident, however, perfectly captures FCL's response.

On July 1st movant's unit was allowed outside for its weekly hour of recreation. A man fell unconscious while playing basketball; guards, who had to be fetched from an office, stood by as the man just lay there. Eventually, another prisoner administered CPR. Later, at the hospital, the man tested positive for COVID. A prison nurse asked the CPR provider, "Why would you give CPR to another inmate during COVID?" Then she discouraged the CPR provider, Dayvion Thomas, from heading to isolation even though he'd been exposed to COVID.

(5)

not undermine the Court's punishment. Moreover, the movant does not pose a risk to the community. He has learned his lesson, has no desire to return, and is beyond ready to rebuild his life. Also, the movant's tech devices will be monitored by the U.S. Probation Office. The movant will reside at his mother's home. Although the movant may be unable to attend therapy in person (because of COVID), he is prepared to do so virtually. Indeed, the movant dutifully takes his medication — which includes an antidepressant and mood stabilizer.

Regarding employment, the movant hopes to work in communication for a nonprofit devoted to criminal justice reform; but until he secures such a job the movant plans to work as a laborer on St. Louis's riverfront. The movant's brother is a supervisor for the relevant company.

Conclusion

COVID is not vanishing; prisons remain the largest single clusters of COVID. Nearly one thousand Americans are dying per day — many of the asthmatics like the movant. And public health officials predict an even deadlier fall when the flu reappears. Prison is no place to be (for an at-risk prisoner like the movant close to release anyhow) during a pandemic. Those, like the prisoner, who violate the law must be held accountable. Still, accountability should not mean death in prison because of a deadly, once in a lifetime, pandemic that the BOP cannot handle.

Name: JUAN THOMPSON
Reg # 46606044
Federal Correctional Complex (Low)
P.O. Box 1004, PW
Fortest City, MO 72336

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United States District Court
Honorable P. Kevin Castel
C/O Clerk O'Hagan Wolfe
40 Foley Square
New York, NY 10007

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